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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,685	11/04/2003	Doughan A. Turk	86503-72	4910
28291 7590 11/28/2008 FETHERSTONHAUGH - SMART & BIGGAR 1000 DE LA GAUCHETIERE WEST SUITE 3300 MONTREAL, QC H3B 4W5 CANADA				
EXAMINER				
VU, VIET DUY				
ART UNIT		PAPER NUMBER		
2454				
MAIL DATE		DELIVERY MODE		
11/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/699,685

**Applicant(s)**

TURK ET AL.

**Examiner**

Viet Vu

**Art Unit**

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 1/04; 7/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**Non-Art Rejections:**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-17, 34-35 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following language lack proper antecedent basis:

In claim 1, line 4, "said default router default route generator".

In claim 34, line 4, "said default route generator".

In claim 57, line 7, "said default route generator".

Additionally, in claim 1, line 2, "a default router default router" appears to be a typo error. Correction is required.

**Art Rejections:**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2454

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liston, U.S. pat. No. Appl. Pub. No.

2004/0103314.

Per claim 1, Liston teaches a system and method for analyzing network traffic comprising:

a) a plurality of subscriber units and a router interconnected by a network, said router operable to direct routed traffic to an appropriate subscriber unit and further operable to direct unrouted traffic (unused IP addresses) to a network monitoring system 4 (see page, par. 36); and

b) an analyzer connected to said default router default router for determining patterns of activity within said unrouted traffic (see par. 37-40).

Liston does not explicitly use the claimed term default router generator in the invention. However, Liston clearly teaches using the monitoring system for responding to an attempt of contacting an unused address (see par. 37).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize the use of Liston's monitoring system as a default destination address for unrouted traffic (unused IP addresses) (see par. 37).

Per claims 2-4, 7-8 and 9-10, Liston's invention is used to prevent common network attacks including virus, worms, etc., (see par. 4).

Per claims 5-6 and 15-16, Liston does not teach applying penalty such as fine to individual user who are sources of prohibited traffic. It would have been obvious to one skilled in the art to apply such action in Liston because it would have enabled deterring transmitting/spreading prohibited data traffic in the network.

Per claims 11-13, Liston teaches using the monitoring system as a honey pot to attract all unrouted traffic (see par. 37).

Per claim 14, Liston teaches isolating a subscriber unit from the network in response to a detection of malicious activity (see par. 42).

Per claim 17, Liston does not explicitly teach updating definition of known patterns of malicious traffic. An official notice is taken that such use of regularly updated definition of known patterns of malicious traffic for detecting malicious network attacks is well known in the art (see par. 4-11).

Claims 18-58 are similar in scope as that of claims and hence are rejected for the same rationale set forth for claims 1-17.

**Conclusion:**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Friday from 7:00am to 4:00pm. The Group general information number is 571-272-2100. The Group fax number is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn, can be reached on 571-272-1915.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Art Unit: 2454

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Viet Vu/

Primary Examiner, Art Unit 2454

11/24/08